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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/759,627	01/16/2004	Raymond Findleton	P68.2-11447-US01	1231
490 7590 02/06/2008 VIDAS, ARRETT & STEINKRAUS, P.A. SUITE 400, 6640 SHADY OAK ROAD EDEN PRAIRIE, MN 55344			EXAMINER CASTELLANO, STEPHEN J	
			ART UNIT 3781	PAPER NUMBER
			MAIL DATE 02/06/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/759,627

Applicant(s)

FINDLETON, RAYMOND

Examiner

/Stephen J. Castellano/

Art Unit

3781

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 January 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☒ Claim(s) 1-21 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☒ Certified copies of the priority documents have been received in Application No. 10/185585.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claims 22 and 23 have been canceled. Claims 1-21 are pending.

Claims 1-21 are objected to because of the following informalities: Claim 1 contains a semicolon preceded by a comma in line 10. Applicant should correct this use of conflicting punctuation. Appropriate correction is required.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-10, 12-16 and 18-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Robbins, III (D418068) (Robbins) in view of Morris, Sr. (5377858) (Morris).

Robbins discloses a measuring canister container, the canister is designed for holding liquid and flowable material and is capable of holding paintable liquid. Robbins' canister comprises a base, continuous wall, grip members (recesses at right side of Fig. 2), a dip section (between the left and right walls of Fig. 2), an inclined tongue portion (at left side of Fig. 2), and a center of gravity between the grip members and tongue portion.

Robbins discloses the invention except for a top opening that accommodates dipping adjacent to the grip members. It would have been obvious to relocate an opening adjacent to the grip members to dip in a location adjacent to the grip so that the one hand supported container doesn't become unstable from dipping at a location remote from the grip which could cause excessive torque, loss of grip and a dropped container and spilled paint. Further, Morris discloses a removable rectangular closure. It would have been

obvious to remove the lid to provide wider access to the container for easier filling or easier access with a painting implement. Robbins container without the lid provides a dipping section that extends the full width and depth of the top opening.

Re claims 2-4, Robbins fails to disclose a size or weight capacity. Robbins appears to be the type of container that is grippable at the left side of Fig. 2 by a single hand. Official notice is taken that containers of generally similar shape to Robbins that are of a dimension to be grippable by one hand with the fingers extending within two recesses or grip members is well known in the container art. It would have been obvious to modify the dimensions of Robbins so that the container can be held by one hand in order to provide the convenience of one hand holding while the other hand is free to perform other tasks. A typical hand grippable container using Robbins' proportions would have height (H) of 4 inches, Width (W) of 4 inches and a depth (D) of 2 inches approximately. The spacing (L) of the center of gravity (COG) from the grip member would be 1 inch approximately. The weight (M) of the 4 X 4 X 2 paint filled container would be approximately 2.5 lb. The torque (T) in foot-pounds would be calculated by the equation:

$$T = M L = 2.5 \text{ lb.} \times 1/12 \text{ ft.} = 0.2083 \text{ ft-lb.}$$

This meets the "no more than 0.6 ft-lb" requirement. It would have been obvious to size the container to have the dimensions and filled weight as discussed above to provide a convenient one hand grippable container that holds a capacity of paint sufficient to cut-in or edge-in the borders of a 10 ft. by 10 ft. room with an 8 ft. ceiling.

Re claims 5-7, the grip member has a vertical length that extends at least 50% of the base length.

Re claim 16, a three inch wide container is within the realm of one hand grippable containers. It would have been obvious to provide a 3 in. wide depth to provide a desired capacity of liquid or paint as well as the accommodation of wide paint implements up to 3 in. wide.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Robbins in view of Morris as applied to claim 1 above, and further in view of Lown.

The Robbins-Morris combination discloses the invention except for the ridges. Lown teaches grip members with ridges. It would have been obvious to add the ridges in order to improve grip to insure the container doesn't slip when filled with paint and held in one hand.

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Robbins in view of Morris as applied to claim 1 above, and further in view of Bebak.

The Robbins-Morris combination discloses the invention except for the 45 degree tongue angle. Bebak teaches an approximately 45 degree tongue angle. It would have been obvious to modify the tongue angle to be approximately 45 degrees (see Fig. 5) as a matter of design choice in selecting a particularly efficient angle for removing excess paint.

Applicant's arguments with respect to claims 1-21 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to /Stephen J. Castellano/ whose telephone number is 571-272-4535. The examiner can normally be reached on increased flexibility plan (IFP).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony D. Stashick can be reached on 571-272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Stephen J. Castellano/
Primary Examiner
Art Unit 3781

sjc